THE HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.26504 OF 2005

DATED 28.12.2005

BETWEEN:

P.Srikanth, s/o.P.Kishan Rao,

22 yrs., Occu: Student,

H.No.8.3.111, Bhagat Nagar,

Karimnagar. … petitioner.

And

1. N.T.R.University of Health Sciences,

Vijayawada. … Respondents.

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ORDER:

The petitioner is a student of M.B.B.S. in the Kakatiya Medical College, Warangal affiliated to the first respondent-University. He took part-II of the final year examination in the month of April, 2005. On 6.4.2005 when he was writing the examination Surgery Paper-I, the examiner found some objectionable material with the petitioner and booked a case of malpractice against him. However, he was permitted to appear in the other examinations.

The first respondent issued a memo dated 20.7.2005 directing the petitioner to show the cause as to why necessary action shall not be taken against him in view of the fact that the copying material was found with him, during the course of examination.

The petitioner submitted his explanation on 1.8.2005. Thereafter, the first respondent passed an order dated 5.9.2005 cancelling the appearance of the petitioner in the said examinations and disqualified him for appearing in the future examinations for a period of one year. The same is challenged in this writ petition.

Sri Nandigam Krishna Rao, the learned counsel for the petitioner submits that the petitioner is in the habit of recapitulating his studies till he enters the examination hall and inadvertently, he did not take away one slip from the pocket. He contends that there was not even an allegation that the petitioner used the material, in answering any question. Placing reliance upon the judgment of the Division Bench of this Court in W.A.No.643 of 2005 dated 25.3.2005 he pleaded that mere recovery of any material without establishing the mala fide intention to use the same cannot constitute a ground to disqualify the petitioner or for cancellation of the examination.

The learned Standing Counsel for respondents, on the other hand, submits that the possession of written or printed material by a candidate during the course of examination by itself would constitute malpractice and no exception can be taken to the impugned order.

Basically, in the orders passed by the concerned authorities in relation to malpractice, this Court would undertake a limited verification, as to the compliance with the principles of natural justice. The decision, on merits, is virtually left to the discretion of the authorities. However, where the punishment imposed against the candidate is not supported by the concerned record, this Court does not hesitate to examine the matter further.

In the instant case, the respondents issued a show-cause notice to the petitioner and passed the impugned order after considering of the explanation. To that extent, the proceedings cannot be found fault with.

When it comes to the question of imposition of penalty, it is evident that the respondents themselves permitted the petitioner to appear in the examination subsequent to the date of booking of the case. The record does not disclose that the petitioner was found copying from the material. Therefore, whatever may be the justification in canceling the performance of the petitioner in the examination held on 06.4.2005, cancelling the results for other examinations and disqualifying the petitioner for one year is not supported by the record or the relevant facts.

For the foregoing reasons, the writ petition is partly allowed modifying the order dated 5.9.2005 to the effect that the performance of the petitioner in the surgery paper-I held on 6.4.2005 shall stand cancelled. The respondent shall declare the results of the petitioner in other examinations and permit the petitioner to appear for the surgery paper-I in the ensuing examinations.

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28.12.2005.

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